



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 2815, SACRAMENTO, CALIFORNIA 95812-2815
(916) 323-2514 • (916) 324-0908 FAX • WWW.CALEPA.CA.GOV

LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER
GOVERNOR

Certified Mail: 7003 1680 0000 6167 7091

May 26, 2010

Chief Craig Bueno
Hayward City Fire Department
777 B Street
Hayward, California 94541

Dear Chief Bueno:

The California Environmental Protection Agency (Cal/EPA), California Emergency Management Agency, Office of the State Fire Marshal, and the Department of Toxic Substances Control Board conducted a program evaluation of the Hayward City Fire Department Certified Unified Program Agency (CUPA) on February 9 and 10, 2010. The evaluation was comprised of an in-office program review and a field oversight inspection by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that the Hayward City Fire Department's program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to Mary Wren-Wilson every 90 days after the evaluation date.

Cal/EPA also noted during this evaluation that the Hayward City Fire Department has worked to bring about a number of local program innovations, including the Target Hazard Program and Code Assistance meeting participation. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program website to help foster a sharing of such ideas statewide.

Chief Bueno
Page 2
May 26, 2010

Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by e-mail at jbohon@calepa.ca.gov.

Sincerely,

[Original signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc: Sent via e-mail:

Mr. Hugh Murphy
HazMat Program Coordinator
Hayward City Fire Department
777 B Street
Hayward, California 94541

Ms. Jennifer Lorenzo
Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

Mr. Mark Pear
Department of Toxic Substances Control
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

Ms. Terry Brazell
State Water Resources Control Board
P.O. Box 944212
Sacramento, California 94244-2102

Mr. Kevin Graves
State Water Resources Control Board
P.O. Box 944212
Sacramento, California 94244-2102

Chief Bueno
Page 3
May 26, 2010

cc: Sent via e-mail:

Ms. Asha Arora
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721

Mr. Charles McLaughlin
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

Mr. Ben Ho
Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

Chief Robert Wyman
California Emergency Management Agency
3650 Schriever Avenue
Mather, California 95655

Mr. Jack Harrah
California Emergency Management Agency
3650 Schriever Avenue
Mather, California 95655-4203

Ms. Mary Wren-Wilson
Cal/EPA Unified Program
1001 I Street
Sacramento, California 95812



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 2815, SACRAMENTO, CALIFORNIA 95812-2815
(916) 323-2514 • (916) 324-0908 FAX • WWW.CALEPA.CA.GOV

ARNOLD SCHWARZENEGGER
GOVERNOR

CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: Hayward City Fire Department

Evaluation Date: February 9 & 10, 2010

EVALUATION TEAM

Cal/EPA: Mary Wren-Wilson and Ernest Genter
OSFM: Jennifer Lorenzo
DTSC: Mark Pear

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Mary Wren-Wilson at (916) 323-2204.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	<p>The CUPA does not consistently provide a summary of violations and/or a notice to comply to the facility owner/operator at the conclusion of an inspection. Instead, the CUPA has been mailing many of the summaries of violations and/or the notice to comply to the facilities.</p> <p>For example:</p> <ul style="list-style-type: none">• Gene's Radiator Repair 02/13/2009• The SOV/NTC for the 02/29/08 inspection of Advanced Fabrication Technology and,• The 04/03/2008 inspection of Contractors Chemical. <p>HSC Sections 25185(c)(1) and 25187.8(a) [DTSC]</p>	<p>By April 10, 2010, instruct staff that a Summary of Violations or a Notice to Comply must always be provided to the facility at the conclusion of an inspection.</p> <p>With the first Deficiency Status Update that is due May 10, 2010, please provide documentation of the instruction provided to staff.</p>
2	<p>The CUPA's UST facility files reviewed did not contain all required current facility, tank, and monitoring information required by the new UST Forms A (Facility Information), B (Tank Information), and D (Monitoring).</p>	<p>By February 10, 2011, all UST facility files should be updated with the new UST Forms A (Facility Information), B (Tank Information), and D</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

	<p>CCR, Title 23, Section 2711(a) and (c), HSC 6.7 Section 25286(a) and 25288(a), CCR Title 27, Sections 15185(a) and 15188. [SWRCB]</p>	<p>(Monitoring) which contain new fields of information from the old forms.</p> <p>This can be done during the annual compliance inspection by leaving the new forms for completion and submittal to the CUPA or the CUPA can pre-populate the information into the form functional Word documents and leave copies with the facility. The new forms were part of the new Title 27 regulations that became effective January 2008.</p> <p>In the future, another alternative is for the CUPA to utilize CERS to have the UST owner/operator enter the facility information. This should eliminate the need for CUPA staff to enter the data and enable electronic retention of the forms, which will allow updating of the information without new forms being submitted.</p>
3	<p>The CUPA is not ensuring that the hazardous materials business plan files are complete.</p> <p>Files reviewed (with the exception of one file) indicated that the Business Activities forms were missing.</p> <p>HSC, Chapter 6.95, Section 25505 (a)(2) [Cal EMA & OSFM]</p>	<p>With the first Deficiency Status Update that is due May 10, 2010, the CUPA will develop and submit an action plan that will outline how the CUPA will correct this deficiency.</p>
4	<p>During the Hazardous Waste Generator oversight inspection, it was noted that the CUPA the inspector failed to verify compliance with all program requirements for laboratories under HSC 25200.3.1.</p> <p>HSC, Chapter 6.5, Section 25200.3.1 [DTSC]</p>	<p>By April 10, 2010, the CUPA shall re-inspect and determine whether the facility is in compliance under HSC 25200.3.1.</p> <p>With the first Deficiency Status Update that is due May 10, 2010, please provide documentation of the above required determination.</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

CUPA Representative

Hugh Murphy
(Print Name)

Original Signed
(Signature)

Evaluation Team Leader

Mary Wren-Wilson
(Print Name)

Original Signed
(Signature)

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.

1. **Observation:** The CUPA has divided the City of Hayward into 2 inspection regions (North and South). Each inspector has a region and is responsible for all CUPA activities in that district. The inspectors swap regions approximately every 2 years. This has proven to be effective and efficient for travel time and knowledge of the area.

Recommendation: None

2. **Observation:** The CUPA is integrating the regulation of Hazardous Materials facilities and sites in several newly incorporated areas throughout the City.

Recommendation: None

3. **Observation:** On the CUPA's Web site regarding Spill Prevention, Control, and Countermeasure (SPCC) Plans, the following statement is shown:

"A facility storing 'petroleum products' in a single tank with a capacity greater than 1,320 gallons or in aboveground tanks or containers with a cumulative storage capacity greater than 1,320 gallons must prepare an SPCC plan."

Recommendation: OSFM recommends that the statement be rephrased as or similar to the following: "A facility storing petroleum products with a cumulative storage capacity greater than or equal to 1,320 gallons must prepare an SPCC Plan." Also, the minimum container size toward the threshold capacity is 55-gallons.

4. **Observation:** The CUPA's Inspection and Enforcement (I&E) Plan contains outdated information on the Aboveground Petroleum Storage Act (APSA)/Spill Prevention Control and Countermeasure Plan requirements. The plan was last revised in coordination with the other CUPA's within the County of Alameda. In addition, the CUPA's within the county have formed subcommittees that will address the APSA program requirements.

Recommendation: Cal EPA recommends that the CUPA, in coordination with the other CUPA's within the county, update the I&E Plan to reflect the current APSA requirements. Specifically update the following information: Mandated inspection frequency per Health and Safety Code section 25270.5 (a) on page 6, the 30-day return to compliance for minor violations per Health and Safety Code section 25404.1.2 (c)(1) on page 13, matrix of enforcement options on page 35, and the program specific enforcement on page 39 (refer to Health and Safety Code section 25270.12).

5. **Observation:** The CUPA is conducting inspections with a frequency that is consistent with its I&E Plan and with the inspection of other program elements. The CUPA has inspected all hazardous waste generators that have been identified by the CUPA.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

- 1) 571 hazardous waste generators were identified in Fiscal Year 06/07 of which 286 were inspected.
- 2) 572 hazardous waste generators were identified in Fiscal Year 07/08 of which 275 were inspected.
- 3) 585 hazardous waste generators were identified in Fiscal Year 08/09 of which 307 were inspected.

The number of hazardous waste generators identified by the CUPA is significantly less than the number obtained from DTSC's Hazardous Waste Tracking System, which reflects 700 hazardous waste generators in the City of Hayward.

Recommendation: DTSC recommends that the CUPA compare their facility data with DTSC's Hazardous Waste Tracking System to ensure an accurate count of the number of hazardous waste generators in the City of Hayward.

6. **Observation:** The CUPA does not routinely access the Hazardous Waste Tracking System of DTSC to determine whether facilities within its jurisdiction have active EPA ID numbers and to review facility manifests before conducting a hazardous waste generator inspection.

Recommendation: DTSC recommends that the CUPA begin accessing DTSC's Hazardous Waste Tracking System prior to future hazardous waste generator inspection to determine waste profiles and waste generation status from manifests submitted to the state by the generator.

7. **Observation:** Ten hazardous waste inspection reports were reviewed. Of the ten files reviewed, the CUPA had either Return to Compliance certificates, a re-inspection report, or corrected on site notations for nine of those facilities found with minor violations.

Recommendation: None

8. **Observation:** During the February 26, 2009 inspection of Platron Company West located at 26260 Eden Landing Road in Hayward, CA, the inspector did not review and complete all items on the Tiered Permit Inspection Checklist. This was also noted for the 09/01/2009 inspection of the Teikuro Corporation.

Recommendation: All items on the TP checklist should be reviewed and documented during every triennial inspection.

9. **Observation:** Universal Auto Body Shop & Repair located at 1551 Industrial Parkway West in Hayward, CA is a hazardous waste generator, yet neither of the inspections conducted on 03/19/2009 nor 06/07/2006 indicate whether a hazardous waste generator inspection was done. In addition, ABC Towing located at 1551 Industrial Parkway West in Hayward, CA is also a hazardous waste generator, yet neither of the inspections conducted on 04/16/2006 nor 02/17/2009 have a hazardous waste generator inspection checklist completed.

Recommendation: DTSC recommends that the CUPA complete a hazardous waste generator inspection checklist or report for all facility inspections conducted.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

10. Observation: The CUPA, with limited staff, is providing a commendable overall CUPA program. In addition to the normal CUPA responsibilities, the CUPA also conducts fire code and other uniform code permitting, inspection and enforcement. This includes full time staffing of City Permit Center and Business License Review.

Recommendation: None.

11. Observation: The CUPA, under the direction of the Regional Water Quality Control Board, is the Local Implementing Agency for LUST cases in the area. They ensure that all sites are actively being worked on and moving toward site closure, ensure sites are reviewed prior to development, and manage these cases on GeoTracker.

Recommendation: None.

12. Observation: The Hayward City Fire Department has taken several formal enforcement actions, which have been the following:

- Settled a civil case thru the DA's office against U-Haul South Bay for failing to submit a HMBP for an aboveground propane tank and the changing of, and storage of oil at the site for \$5,000.
- Placed a red tag on the operation of Hesperian 76 for failing to obtain annual monitoring and certification for its underground storage tanks.
- In addition, an enforcement confidential case has been referred to the DA's office concerning a long two foot wide trailing diesel spill from a commercial truck unloading at big box chain store.

Recommendation: None.

13. Observation: The CUPA implements a comprehensive self-audit of its Unified Program annually. In addition to the minimum requirements of the self-audit, the CUPA describes in great detail the activities performed for the previous fiscal year, including the following topics: training activities, public participation and results of surveys from the public.

Recommendation: None.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. **Regulated Community Satisfaction Survey:** To better evaluate the needs of its regulated community and the services that the CUPA provides, the CUPA conducts an annual survey of its regulated businesses. In order to assess satisfaction with CUPA programs and inspectors, Hayward City Fire Department's Hazardous Materials Office conducted a survey of 765 businesses. Of 393 email invitations, 220 responded. Of 372 mailed surveys, 100 completed surveys were returned to the CUPA (approximately a 42 percent overall response rate, including electronic survey submittal). For the first time, the 2009 survey was also hosted online with Surveymonkey.com for a period of three months, and this enabled the CUPA to have its highest ever survey response rate.
2. **Code Assistance:** The City of Hayward Fire Department schedules and coordinates Code Assistance Meetings with owners of new construction projects and their architects or contractors. New construction also includes major alterations and modifications of existing structures.

A Code Assistance Meeting is purely advisory in nature and provides reliable responses to questions from facilities with:

- hazardous materials
- high-piled storage
- hazardous processes
- changes in building use
- multiple Fire Code and Building Code requirements

Two 1-hour code assistance meetings are scheduled every Wednesday from 11:00 a.m. and at 1:30 p.m.

The Fire Department invites staff from Fire, Building Inspection, Planning, Public Works, and representatives from other City regulatory agencies to discuss their respective requirements for the project. There is a fee for this meeting.

3. **Site Closures:** The CUPA requires notification and certification of closure of all generators regardless of their generation rates within the city before vacating a site followed by a walk thru of a City Fire Inspector verifying that the submitted closure plan has been followed.
4. **Target Hazard Program:** The CUPA continues to implement its Target Hazard program, which is a direct result of the cooperation between the Hazardous Materials Office and the Fire Department's Operations Division. Facilities have been identified as Target Hazards based on the quantity and nature of the hazardous materials they handle. Information about these Target Hazards is provided to the Operations Division in a format they prefer which is abbreviated, easily accessible, and more understandable.

In addition, the CUPA improved its electronic (digital) mapping based on the GIS capability of the City's Technology Services Division. The CUPA may choose and select from various databases to show hazardous materials facilities, underground storage tanks,

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

site contamination cases, CalARP facilities, and/or Target Hazard facilities on a GIS map.

5. **Inter-Agency Coordination:** Hayward City Fire Department CUPA program is highly involved in coordination activities between agencies in Alameda County. Examples of these activities are:
- Alameda County Fire Chiefs- Hazmat Code Enforcement Section Meetings
 - Host monthly coordinated agency meeting for all CUPAs in Alameda County, Berkeley, Fremont, Hayward, Livermore-Pleasanton, Newark, Oakland, Union City, San Leandro, and DTSC.
 - City of Hayward Fire Department is the only first responding fire agency in Alameda County to attend these meetings.
 - The City of Hayward Fire Department Hazardous Materials Program Coordinator is the current Vice-President of Hazmat Code Enforcement Section and the Haz Mat Operations Systems Section.
 - Alameda County Environmental Task Force
 - Host monthly joint Alameda County Environmental Task Force meetings between for the CUPAs, Publicly Owned Treatment Works, Fish and Game, Bay Area Air Quality Management District, DTSC, Alameda County District Attorney, Alameda `
 - Training
 - Hosted only Bay Area UST Tag meeting in Alameda County
 - Hosted UST training
 - Hosted Area Plan training
 - Hosted DTSC training
 - Hosted Uniform Fire Code training
 - Only CUPA to attend Alameda County Fire Department Operations Training
 - Holding APSA training sessions March 27 and April 7, 2010
6. **Recognition Programs:** The CUPA participates in the annual City sponsored Environmental Achievement Awards by inspecting and judging for the Haz Mat portion of the Green Business Program award.
7. **Inspection and CalARP Audit Frequency:** The CUPA has exceeded the mandated inspection frequency in most program elements. Facility inspections (except UST) are conducted on a 2 year cycle instead of the mandated minimum 3 year cycle. The CUPA also conducts annual CalARP audits.